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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,651	01/23/2001	Howard C. Willauer	5132	3445

7590

04/10/2003

Terry T. Moyer
P.O. Box 1927
Spartanburg, SC 29304

EXAMINER

SINGH, ARTI R

ART UNIT

PAPER NUMBER

1771

5

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,651

Applicant(s)

WILLAUER ET AL.

Examiner

Ms. Arti Singh

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 42-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 24-41 in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Please cancel nonelected claims.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 05/04/2001 has been considered, has been signed and is being remitted.

Specification

3. The disclosure is objected to because of the following informalities:
4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Please amend the title of the specification as the elected claims are directed to the method of making and not the article itself. Appropriate correction is required.
5. On page 2, line 6, it appears that a typographical error has occurred and Applicant meant to type "plain" instead of "plan". The same error is seen in Claim 35, line 2.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 24, 25, 28, 29, 32, 34, 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds USPN 5,261,978 . Reynolds teaches a method and apparatus for the manufacturing a composite having a three dimensional camouflage appearance (abstract). The lightweight camouflage construction comprising an open mesh, net substrate to which is bonded a sheet material such as a woven fabric, film, nonwoven or the like. The sheet is colored in a desired camouflage pattern bonded to the substrate along spaced lines of attachment, and cut to simulate the appearance of natural objects f terrain , such as leaves or foliage between adjacent lines of bonding (column 2, line 62- column 3, line). During processing of the bonded composite the fabric forms lobes on each side of the stitching the appearance of natural terrain, the fabric is heated to soften the lobes while passing downwardly to allow the lobes to fall away from the mesh, thereby forming undulations in the textile (column 3, lines 19-25). The Examiner is equating the lobes and depressions to be the same as the wrinkled and flat regions desired by Applicant. In column 4, lines 23 onwards patentee discloses that the continuous sheet , that is the textile layer may be woven, nonwoven or knit, further in the same paragraph patentee illustrates various weave patterns such as Raschel (line 38) and rip-stop (line 43). It should be noted that patent states that a woven textile may be employed which intrinsically advocates that a specific weave is engaged.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

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matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 26, 27, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds USPN 5,261,978. The salient features of Reynolds are set forth above, however Reynolds fails to disclose the exact weave when employing a woven textile. Therefore, with regard to the limitations of claims 26, 27, 35 and 36, where selected pattern of the weave is to be either a plain or satin weave, the Examiner takes the position that the teachings of Reynolds instruct the use of textiles that may be woven, nonwoven, knits, films or meshes. One of ordinary skill in the art at the time the invention was made would have found it obvious to have used the specific weave of either a plain or satin weave in the specific textile of Reynolds motivated by the reasoned expectation of using the cheapest (economically sound) and readily available woven textiles such a satin or plain weave. Additionally, a skilled artisan may have chosen a satin or plain weave motivated by the desire to employ a textile which has the specific properties of strength and durability.

10. Claims 30, 31, 39, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds USPN 5,261,978 as applied to claims 24-29 and 32-38 above, and further in view of Crenshaw USPN 4,418,451.

Reynolds teaches what is set forth above but fails to disclose the use of hot fluid treatments to his textile.

Crenshaw teaches a method of producing surface height patterned materials by the application of streams of pressurized, heated fluid into surface areas of relatively moving materials having thermally modifiable surface components. The heated fluid streams are selectively activated and deactivated in accordance with pattern information to strike selected surface areas of the material to thermally shrink and compact the selected surface areas by a desired amount (abstract). This is exactly the same procedure that Applicant

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seeks in the aforesaid claims. Thus, a person having ordinary skill in the art at the time the invention was made would have found it obvious to have utilized the heated fluid treatment of Crenshaw on the textile of Reynolds, motivated by the desire to formulate a textile have a patterned appearance where some areas are shrunken and others are expanded, thus forming a textile having multiple heights.

With regard to the limitation of claim 41, wherein Applicant applies a finishing lubricant to the textile, to this the Examiner takes the position that on eof ordinary skill in the art at the time the invention was made would have found it obvious to have applied a finishing lubricant to the textile, motivated by the desire to prevent the pre-finished composite from fraying.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 5,486,385 and USPN 5,035,031.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 8:00am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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A handwritten signature in black ink, appearing to be 'AS' with a stylized flourish.

Ms. Arti Singh
Patent Examiner
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ars
April 7, 2003